

### **REMARKS**

Claims 1 to 16 are pending in the application, of which claims 1 and 9 are independent claims. Favorable reconsideration and further examination are respectfully requested.

#### **A. Claim Rejection Under 35 U.S.C. § 102**

On page 3 of the Office Action, claims 1 to 16 were rejected under 35 U.S.C. § 102 for allegedly being obvious over Tull (U.S. Patent No. 5,946,667). Applicant respectfully disagrees.

Claim 1 has been amended to make clear that the act of selecting an investment instrument “is based on a profile associated with an user’s preferences.” Those preferences may include any number of factors, such as an user’s tolerance for risk and desired rate of return. Furthermore, as claim 1 clearly indicates, a system acting on behalf of the user selects which investment instruments are to be included in an investment trust. To this end, the user’s profile helps the system determine the investment instruments that are best-suited for inclusion in the user’s trust.

Tull neither discloses nor suggests such a financial structure. To the contrary, in Tull, the investors select individual stocks on their own behalf. A programming function computes market data associated with individual stocks and suggests optimal stock shares to individual investors. *See e.g.*, col. 3, line 63 to col. 4, line 6. Based on these suggestions, the investors then decide which stocks to select. Nowhere does Tull disclose or suggest “a profile associated with an user’s preferences,” as in Applicant’s claim 1. In fact, Tull has no need for such user profiles, since it does not make any investment decisions.

For at least the foregoing reasons, Applicant submits that claim 1 is patentable. Amended independent claim 9 is a system claim that corresponds, roughly, to claim 1. The rejection of this claim is believed to be overcome for at least the same reason as noted above with respect to claim 1. Claims 2 to 8 and 10 to 16 depend from and further limit one of claims 1 and 9, and are respectively believed to be allowable for at least the same reasons.

B. General Comments on Dependent Claims

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicant believes that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. However, Applicant does not necessarily concur with the interpretation of the dependent claims as set forth in the Office Action, nor does Applicant concur that the basis for the rejection of any of the dependent claims is proper. Therefore, Applicant reserves the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

C. Conclusion

In general, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with

regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Applicant's undersigned attorney can be reached at the address shown below. All telephone calls should be directed to the undersigned at (857) 413-2056.

Respectfully submitted,

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